

IN THE THIRD JUDICIAL DISTRICT COURT, IN AND FOR DAGGETT COUNTY

## STATE OF UTAH

IN THE MATTER OF THE GENERAL  
DETERMINATION OF ALL THE RIGHTS  
TO THE USE OF WATER, BOTH SURFACE  
AND UNDERGROUND, WITHIN THE DRAIN-  
AGE AREA OF THE GREEN RIVER ABOVE  
THE CONFLUENCE OF, BUT INCLUDING,  
POT CREEK, IN DAGGETT, SUMMIT AND  
UINTAH COUNTIES, UTAH.

PROPOSED DETERMINATION OF  
WATER RIGHTS  
BURNT FORK AND BIRCH  
CREEKS DIVISION

Comes now WAYNE D. CRIDDLE, as State Engineer of the State of Utah  
and respectfully represents and shows unto this Honorable Court:

1. That the Green River rises in western Wyoming, enters Utah on the north line of Daggett County and then flows in an east by south direction through Daggett County and into Colorado; and thence it changes course and returns in a southwesterly direction into Utah and then proceeds in an almost southerly direction through the eastern portion of Utah to its confluence with the Colorado River.

2. That on the 16th day of December, 1948, a petition was filed with the above entitled Court in Summit County, Utah, praying for a general determination and adjudication of the rights to the use of water from Burnt Fork Creek, from the Beaver Creeks and from Birch Creek; and, thereafter, and on the 16th day of February, 1953, upon petition of the State Engineer, an order was made enlarging said proceeding as herein indicated and transferring the same to Daggett County, Utah.

3. That the area under determination consists of the Green River and all its tributaries in Utah above the confluence of and including Pot Creek and includes, by way of illustration, but not by way of limitation, such tributaries as Pot Creek, Carter Creek, Sheep Creek, Henry's Fork, Black's Fork, Smith's Fork and Muddy Creek, and includes all water, both surface and underground, diverted within the drainage area and includes all or part of the following ranges and townships:

Ranges 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 East and Townships 1 and 2 South and 1, 2, and 3 North, Salt Lake Base and Meridian; and, in those areas where there has been no official survey made, the

land net has been projected from known corners, and the maps and descriptions that will be presented to the Court may require change by order of the court to correspond to official surveys, if and when made.

That the State Engineer has followed the provisions and requirements of Chapter 4 of Title 73, Utah Code Annotated 1953, and has given and published the notices therein required to be given and published and has caused summons to be issued and served and has secured the filing of claims by the users of water in said area and the filing of disclaimers by property owners whose only use is through irrigation or water companies or municipalities; that the State Engineer has examined decrees relating to water rights in Summit, Daggett, and Uintah Counties, and has searched the files of his office and the offices of the County Recorder in Summit, Daggett, and Uintah Counties, to the end that no right to the use of water within the said drainage area shall have escaped his attention; that he has given careful consideration to the claims of the water users as filed herein and has completed his hydrographic surveys and certified to the Court the date of completion of said surveys; and that the State Engineer is now prepared to make and does herewith submit to this Honorable Court his proposed determination of all rights to the use of water for irrigation purposes within the drainage area of Burnt Fork and Birch Creeks, being water sources and a proper division within the above entitled proceeding. In recommending this proposed determination of water rights, the State Engineer has adhered to the principles of water appropriation as set forth by the Constitution and the Statutes of the State of Utah and by the decisions of the Supreme Court of the State of Utah, by which constitution, statutes and decisions, it is declared that beneficial use shall be the basis, the measure and the limit of the right to the use of water.

5. That diligence rights from surface water sources are those which were initiated by beneficial use prior to 1903 and were obtained and established thereafter in accord with the intent of the appropriator and the laws of the State of Utah then existent; that diligence rights from underground water sources are those which were initiated and fully attained by beneficial use prior to

March 22, 1935. All other rights to the use of water must have been initiated by an application filed in the office of the State Engineer, which right may be either pending or perfected. In the latter instance, the right is represented by a certificate of appropriation issued by the State Engineer and details of such right are included in this proposed determination for confirmation by the Court; and, in some special instances, the water user has claimed and has substantiated a right based upon an adverse use and the details of such right are also included herein for confirmation by the Court. In preparing the details of the rights as listed in this proposed determination, it has been the rule to consider a flow of water as being only a rate of withdrawal from the underground supply and/or the surface source; the real appropriation is the quantity or volume of water actually diverted or withdrawn in second-feet and the withdrawal in acre-feet during a calendar year.

6. In the instance of irrigation, the field headgate requirement of the land has been considered to be 3.0 acre-feet per acre per calendar year, regardless of the source of supply. Consumptive use or evapo-transpiration from the land is considered to be about 1.25 acre-feet per acre per growing season and the remainder of the 3.0 acre-feet referred to above or 1.75 acre-feet per acre reflects the application losses that are considered reasonable for this area at this time. This allowance for application losses varies depending upon economics and development of the area. Conveyance losses vary with length of canals and ditches, and with soils. It is recommended that the Court reserve the right to change this allowance for application uses in the interest of full development of the area. Transmission allowance for canals in excess of one mile in length is not included in this proposed determination, but is under consideration and investigation by the office of the State Engineer and will hereafter be the subject of the supplemental report to this Court. In determining the amount required for stockwatering purposes, a water allowance has been made of 5 gallons per day for each sheep, goat or swine, 25 gallons per day for each cow or horse, and 0.75 gallons per day for each chicken or turkey.

For domestic or household use, a water allowance of 650 gallons per day for each family has been made. Wherever an award has been made for winter stock-watering on other than a natural source, an immediate return of any unconsumed water to the natural source is both contemplated and required.

7. This proposed determination is intended to cover all existing rights and those pending applications initiated in the office of the State Engineer, all within the area hereinbefore particularly described. The rights listed herein, which are founded upon contemplated appropriations of water by subsisting applications filed in the office of the State Engineer, are subject to inclusion in a final decree conditional upon compliance with the terms of the application upon which the respective contemplated appropriations are based and upon compliance with the provisions of the laws of the State of Utah relating thereto and upon proof of appropriation being made to the State Engineer in compliance with said laws. At the end of the periods as herein-after mentioned, the status of said applications shall be reported by the State Engineer to the Court for inclusion in such supplemental report or decree as the Court may determine and order.

8. It is recommended that the rights to the use of water within the area included in this proposed determination be decreed to the various parties substantially as set forth herein. It is further recommended that the Court require that the State Engineer, at periodic intervals of not less than five years, make his report to the Court for inclusion in a supplemental order or decree, said report to include adjustments, corrections of names of owners and of their addresses, action taken on pending applications, and such other matters as time may indicate to the Court to be just and proper.

9. In all matters whatsoever pertaining to this proposed determination of water rights, the services and assistance and advice of the office of the State Engineer are and shall be available to the Court.

Dated May 1, 1958.

Wayne D. Criddle

WAYNE D. CRIDDLE  
State Engineer